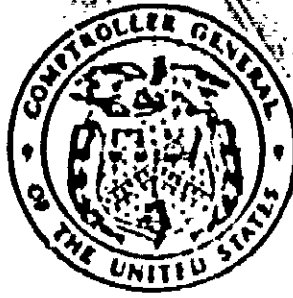


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DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

21146.

FILE: B-204864**DATE:** March 15, 1982**MATTER OF:** Staff Sergeant Kenneth W. Brown, USA, Retired

DIGEST: A retired Army member requested extension of time to complete travel to his home of selection upon retirement over 2 years after the initial 1-year period to complete the travel had expired. The Army denied the request for extension because the record did not meet the regulatory requirements for an extension. Consequently, the member's claim for travel allowances for himself and his dependents for travel performed 3 years after the member's retirement is denied.

This action is in response to a request by Staff Sergeant Kenneth W. Brown, USA, Retired, for reconsideration of the disallowance of his claim for personal and dependent travel allowances to a home of selection upon retirement from the Army. Because the travel and transportation was not performed within 1 year of Sergeant Brown's retirement nor within a properly authorized additional time period, his claim may not be allowed.

Sergeant Brown was retired from the Army effective July 1, 1977, at Fort Hood, Texas. His retirement orders specifically stated that he was authorized 1 year to complete selection of a home and travel in connection with his retirement. Apparently he remained in the Fort Hood area after retirement and did not seek to use his home-of-selection entitlement until June 1980 when he submitted a request to the Army at Fort Hood for an extension of the time period. He was advised by letter dated July 30, 1980, that his request did not meet the regulatory requirements for an extension. Subsequently, by letter dated August 14, 1980, he again requested an extension of time for travel to a home of selection, and he also submitted travel vouchers dated July 8, 1980, for both himself and his dependents for travel from Killeen, Texas (Fort Hood), to Carmel, Indiana, performed in July 1980. At the Army's request he subsequently submitted some documents indicating that he had been attending college in Texas after retirement, that he had been employed in Texas, and his statement that he had been ill in 1978.

The Army advised Sergeant Brown that an extension could not be granted because he did not meet the requirements of the regulations for an extension based on medical treatment or education covering the full period from the expiration of the initial 1 year, through July 1980. Consequently, our Claims Group disallowed his claim for travel allowances for himself and his dependents since the period had not been extended and he did not establish a home in Carmel, Indiana, within 1 year of his retirement.

In a rebuttal statement dated July 29, 1981, Sergeant Brown restated his case in substantially the same form as the initial request without additional pertinent facts.

The controlling statutory provisions are found in 37 U.S.C. §§ 404, 406 (1976). Subsection (a) of 37 U.S.C. § 404 provides that under regulations prescribed by the Secretaries concerned, a member of the uniformed services is entitled to travel and transportation allowances for travel performed from his last duty station to his home upon retirement. Subsection (c) of 37 U.S.C. § 404 provides that, except as provided in regulations by the Secretaries concerned, a member must select his home for the purposes of the travel and transportation allowances within 1 year of his retirement date. Subsections (a) and (g) of 37 U.S.C. § 406 similarly authorize travel and transportation allowances for the member's dependents upon retirement of the member. The regulations implementing 37 U.S.C. §§ 404, 406 are found in Volume 1, Joint Travel Regulations (1 JTR), paragraphs M4158 and M7010. Paragraphs M4158-2 and M7010-2 of 1 JTR set forth the circumstances under which an extension may be granted. Under those regulations the Secretary concerned or his designee may approve extensions under certain conditions for members who are unable to select their home and travel there during the initial 1-year period because they are undergoing treatment at a hospital, because they are undergoing education or training to qualify for acceptable civilian employment, or in other deserving cases where an unexpected event beyond the control of the member occurred which prevented him from moving within the time period.

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Sergeant Brown's request for an extension was filed over 2 years after his travel entitlement expired. Since his retirement was effective July 1, 1977, the 1-year time limitation expired on June 30, 1978, unless he qualified for an extension. Sergeant Brown's request mentioned that he had undergone medical treatment, job training, and attended college since his retirement. However, after what appears to have been full consideration by the Army, including counseling and requests for additional supporting information, the Army found that he did not submit sufficient evidence to substantiate an extension on any of the allowable grounds. There is nothing in the file before us to indicate that the Department's determination was in error.

Since Sergeant Brown did not show that granting of an extension of the 1 year was justified, and since he and his dependents did not perform their travel within the 1-year period, his claim for personal and dependent travel allowances to a home of selection upon retirement was properly denied. Accordingly, we sustain the Claims Group's disallowance of the claim.

for *Milton J. Fowler*
Comptroller General
of the United States